

**WASHINGTON
TOXICS
COALITION**

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Refaxed via modem May 8, 1997
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The Honorable Gary Locke
Governor of Washington
VIA FAX: 360-753-4110

April 21, 1997

**SUBJECT: The "Environmental Excellence Bill" (ESHB 1866)—An
Important Civil Rights Matter**

Dear Governor Locke:

On behalf of our citizen members across the state facing toxic exposures in their communities and workplaces we urge you to veto ESHB 1866, the so-called "environmental excellence bill." We are deeply concerned not only by the version of the bill which has made its way out of the legislature, but also by the unsupported and dangerous concepts behind the bill.

We request a veto for the following reasons:

1) The bill eliminates the guarantee of a minimum standard of health protection to which all Washington residents are entitled.

Each pollution standard is the culmination of years of hard work by citizen activists and agency consideration of a huge amount of information. It establishes a minimum which must be met in every community without citizens having to make the case for protection again and again.

ESHB 1866 kisses this equal protection under the law goodbye. Every state standard—including health-based and technology-forcing standards—can be proposed for suspension by specific polluters or by associations on behalf of whole categories of pollution sources. Under the bill, citizens in selected communities will need to work very hard to simply ensure that standards will be locally enforced. If they're lucky, the industry public outreach plan will identify them as people allowed at the negotiating table, they'll be able to take time away from jobs and children to sit at that table, and they'll be able to counter the enormous resources of the industry proposing the standard suspension. If not, they'll have to offer public comments in a post-negotiations process that allows much less public review than that afforded by law as standards are adopted.

Communities of color and low income have a disproportionate number of polluting facilities. These communities will be most at risk of selection for "environmental excellence" negotiations. ESHB 1866 exacerbates environmental injustice and racism.

Over 130 citizen groups are protesting the new XL permit for Intel in a community of color in Arizona which authorizes toxic air emissions 2 to 50 times higher than standards otherwise would allow. ESHB has even fewer safeguards against this type of outcome than XL.

2) The bill will create an extremely inefficient cumbersome process for permit issuance, contradicting directly and severely state goals of regulatory streamlining.

It is hard to imagine a permitting process which is more time-consuming and resource-intensive than site-by-site negotiations. ESHB 1866 is the antithesis of regulatory streamlining.

3) The premises upon which ESHB 1866 is based are unfounded and dangerous.

ESHB 1866 is based upon two major assumptions: first, that current standards somehow prevent regulated facilities from going further and better protecting health and the environment, and second, that there are constant tradeoffs—situations where facilities need to increase releases of one pollutant to reduce releases of another or where to achieve some greater environmental gain a facility must be allowed to violate a standard.

Neither assumption can stand up to scrutiny. Most pollution standards set a limit on allowable toxic releases and let the regulated facility determine how best to meet that limit. Nothing prevents the facility from doing even better than the standards mandate.

Similarly, genuine tradeoff examples are hard to find. Instead unrelated toxic releases are presented as tradeoffs in a manner which works against true facility-wide pollution prevention. For example, Department of Ecology staff are currently exploring an environmental excellence-type arrangement for Weyerhaeuser's Longview pulp mill. Weyerhaeuser is proposing to reduce air emissions of chlorine associated with bleaching in exchange for suspension of a pH standard and an associated increase in chlorine use at their sanitary treatment plant. The two standards in question are completely unrelated.

Citizens have long sought air standards for all state mills which reduce chlorine emissions. We should not be required to sacrifice water protection to secure these air emission reductions. To make matters worse, the air emission reductions Weyerhaeuser is offering are reductions that it has planned on accomplishing for years via its shift from chlorine bleaching to chlorine dioxide bleaching. Thus, the Department of Ecology is seriously contemplating giving away water standards for something that was going to happen anyway. (Note: citizens are proposing air emission standards at the mill based on totally chlorine compound-free bleaching. Using chlorine dioxide is a halfway measure that still results in significant chlorinated pollution to air and water.)

Governor, this is the kind of proposal agency staff and citizens will be forced to spend time evaluating if ESHB 1866 becomes law. It has nothing to do with pollution prevention and everything to do with accommodating powerful polluters at the expense of health and the environment. It has nothing to do with regulatory streamlining and everything to do with creating a resource-intensive time-consuming inefficient permitting process.

We have worked so hard for so long for a system of minimum guarantees of protection from pollution in each community. Please, do not throw that system away by signing ESHB 1866 into law.

Studies demonstrate that strong standards are what lead to pollution prevention. True environmental excellence is making standards stronger—making them protect children, for example—rather than creating a bureaucratic nightmare in which equal rights are negotiated away on a site by site basis. **Please, veto ESHB 1866 and work with us to strengthen state pollution standards.**

Thank you for your leadership.

Sincerely,

Carol Dansereau
Director, Industrial Toxics Project

cc: Tom Fitzsimmons, Director, Department of Ecology